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T.R.A. DOCKET ROOM

March 29, 2004

Honorable Deborah Taylor Tate, Chairman
Tennessee Regulatory Authority
460 James Robertson Parkway
Nashville, Tennessee 37243


Re: *Implementation of the Federal Communications Commission's Triennial
Review Order—9 Month Proceeding—Loop and Transport*
Docket No 03-00527

Dear Chairman Tate:

Enclosed please find the original and fourteen (14) copies of the Public Version of Errata to Rebuttal Testimony of Gary J. Ball to be filed on behalf of the Competitive Carriers of the South, Inc. ("CompSouth") in the above-captioned docket. A proprietary version is being submitted separately subject to the terms of the Protective Order entered in this docket.

Very truly yours,

BOULT, CUMMINGS, CONNERS & BERRY, PLC

By 
Henry Walker KG

HW/k

PUBLIC VERSION
ERRATA TO REBUTTAL TESTIMONY OF GARY J. BALL
BEFORE THE TENNESSEE REGULATORY AUTHORITY
DOCKET NO. 03-00527

Rebuttal Testimony

1 p 17, lines 6 and 14, *** **BEGIN CONFIDENTIAL** ***
*** **END CONFIDENTIAL** ***

2. p 19, lines 1 and 2, *** **BEGIN CONFIDENTIAL** ***
*** **END CONFIDENTIAL** ***

3. p 25, line 9, insert "(or No Routes) " after "with the notation "'NR '"

4 p. 25, line 10 Insert the following sentences before the sentence that begins "Even for those.. " " BellSouth also identified CLECs as trigger candidates based on its own collocation records, even though these carriers did not respond to discovery and BellSouth's data is unverified. I have identified these CLECs with the notation 'ND' (or No Data)."

5. p. 25, lines 18 and 19, *** **BEGIN CONFIDENTIAL** ***
*** **END CONFIDENTIAL** ***

6 p. 26, line 21, *** **BEGIN CONFIDENTIAL** ***
END CONFIDENTIAL ***

7 p 28, line 23, *** **BEGIN CONFIDENTIAL** ***
*** **END CONFIDENTIAL** ***

8 p. 33, line 17, *** **BEGIN CONFIDENTIAL** ***
*** **END CONFIDENTIAL** ***

Exhibits:

1. *** **BEGIN CONFIDENTIAL** ***

*** **END**

CONFIDENTIAL ***

1 **II. CRITIQUE OF BELL SOUTH'S SELF-PROVISIONING TRIGGER**
2 **ANALYSIS**

3 **A. HIGH CAPACITY LOOPS**

4 **Q. HAVE YOU REVIEWED BELL SOUTH'S TESTIMONY**
5 **CONCERNING THE APPLICATION OF THE SELF-**
6 **PROVISIONING TRIGGER TO HIGH CAPACITY LOOPS?**

7 **A Yes, I have reviewed the testimony of Shelley W Padgett regarding High-**
8 **Capacity Loops beginning at page 2 of her testimony.**

9
10 **Q. WHAT WERE BELL SOUTH'S CONCLUSIONS REGARDING**
11 **THE SELF-PROVISIONING TRIGGER ANALYSIS?**

12 **A BellSouth has asserted that 37 customer loop locations satisfy the self-**
13 **provisioning trigger at both the DS3 and dark fiber capacity levels. The**
14 **specific customer locations are listed on Exhibit SWP-3 of Ms. Padgett's**
15 **Testimony**

16
17 **Q. PLEASE DESCRIBE THE PROCESS THAT BELL SOUTH USED**
18 **TO IDENTIFY HIGH CAPACITY LOOP LOCATIONS FOR ITS**
19 **SELF-PROVISIONING TRIGGER ANALYSIS.**

20 **A BellSouth developed a list of building locations for which it claims**
21 **competitive providers have deployed fiber optic facilities using discovery**
22 **responses from the competitive providers and data from GeoResults, a**
23 **third-party marketing firm. For each building on the list, BellSouth asserts**
24 **that two or more competitive providers are providing services at the**

1 building for both the dark fiber and DS3 capacity levels, and thus claims
2 that the self-provisioning trigger has been met. BellSouth lists the
3 following carriers as self-provisioning trigger providers at one or more
4 locations *** BEGIN CONFIDENTIAL ***

5

6 |

7

*** END

8 CONFIDENTIAL ***

9

10 Q. DID YOU REVIEW ANY OF THE DATA RESPONSES PROVIDED
11 BY THESE CLECS?

12 A Yes. I reviewed the proprietary responses of *** BEGIN
13 CONFIDENTIAL ***

14 |

15

16

*** END

17 CONFIDENTIAL ***BellSouth relied solely upon GeoResults, a third
18 party marketing firm, as the source for those CLECs

19

20 Q. DID BELL SOUTH APPROPRIATELY IMPLEMENT THE SELF-
21 PROVISIONING TRIGGER FOR HIGH CAPACITY LOOPS?

22 A No Based on my review of the information in this case, including the
23 majority of the CLEC data responses, BellSouth has overstated the

1 number of customer locations for which the self-provisioning loop trigger
2 is met. In Exhibit GJB-1, I have revised Exhibit SWP-3 of Ms. Padgett's
3 testimony based on the data contained in the CLEC discovery responses.
4 Where CLECs acknowledged in their discovery responses that they self-
5 provisioned loops at the DS3 level, I indicated so under the column with
6 the CLEC's name. If a CLEC that BellSouth listed as serving a particular
7 location did not indicate that it served that location in its discovery
8 responses, then I noted that the CLEC does not qualify as a trigger
9 candidate at that customer location. In doing so, I specified the reason that
10 the CLEC does not qualify in the column titled "Basis of Exclusion." Of
11 the discovery responses that I have reviewed, no CLEC indicated that it
12 self-provisioned dark fiber loops at any customer location
13

14 **Q. OF THE BUILDINGS LISTED IN BELL SOUTH'S TESTIMONY,**
15 **HOW MANY BUILDINGS POTENTIALLY SATISFY THE SELF-**
16 **PROVISIONING TRIGGER BASED UPON THE CLEC DATA**
17 **RESPONSES?**

18 **A.** Of the customer locations that BellSouth claims satisfy the self-
19 provisioning trigger for DS3 loops, I have identified 4 buildings that may
20 meet the trigger. These buildings are indicated with a "1" in the column
21 titled "Trigger Candidate?" in Exhibit GJB-1. There are 5 additional
22 buildings that could potentially meet the trigger depending upon clarifying
23 the responses of *** BEGIN CONFIDENTIAL ***

1
2
3 *** END CONFIDENTIAL

4 ***

5
6 Q. PLEASE EXPLAIN THE CODES YOU PROVIDED UNDER THE
7 BASIS OF ELIMINATION COLUMN.

8 A. I used four different codes in the "basis of elimination" column to
9 disqualify CLECs as triggers from the buildings BellSouth listed in
10 Exhibit SWP-3. The first code is NR, which means that the building
11 BellSouth indicated as being served by a CLEC was not included in the
12 building list provided by the CLEC. The second code is OCN, which
13 indicates that the CLEC is providing OCN or 3 DS3 and above level
14 service at the location. The third code is GEO, which indicates that
15 BellSouth relied solely upon GeoResults to identify the trigger. The
16 fourth and final code is NDS3, indicating that the CLEC stated in its
17 discovery responses that it is not currently self-provisioning loops at the
18 DS3 capacity level to the given location

19
20 Q. PLEASE PROVIDE AN EXAMPLE OF A CLEC THAT
21 BELL SOUTH INCLUDED AS A TRIGGER EVEN THOUGH
22 THAT CARRIER DID NOT INCLUDE ANY TENNESSEE
23 BUILDINGS IN ITS DISCOVERY RESPONSE.

1 A. In its region-wide discovery response, ***** BEGIN CONFIDENTIAL**

2 *******

3

4

5 ***** END CONFIDENTIAL *****

6

7 Q. **PLEASE EXPLAIN YOUR BASIS OF EXCLUDING BUILDINGS**
8 **BEING SERVED AT AN OC(N) OR 3 DS3 AND ABOVE LEVEL**
9 **OF CAPACITY?**

10 A. As I described earlier in my testimony, the FCC has already determined
11 that no impairment exists for locations that have a demand for an OC(n) or
12 3 DS3 level of capacity, and is seeking to identify locations that have
13 lower demand for only 1 or 2 DS3s. A location for which a CLEC is
14 providing 3 or more DS3s does not provide evidence that another CLEC
15 can overcome the costs of deploying a loop to serve only 1 or 2 DS3s.

16

17 Q. **HOW DID BELL SOUTH USE GEORESULTS TO SUPPORT ITS**
18 **TRIGGER FILINGS?**

19 A. In her testimony, Ms. Padgett states that BellSouth relied upon GeoResults
20 to identify building locations for its trigger analyses if BellSouth believed
21 that the CLEC data BellSouth received was incomplete if it did not receive
22 CLEC data. In Exhibit SWP-13 to her testimony, Ms. Padgett indicates
23 the following carriers for which BellSouth relied solely upon GeoResults:

1 *** BEGIN CONFIDENTIAL ***

*** END

3 **CONFIDENTIAL *****

5 Q. BASED UPON YOUR REVIEW OF GEORESULTS OUTPUTS IN
6 OTHER STATES, DOES GEORESULTS PROVIDE SUFFICIENT
7 INFORMATION TO DETERMINE WHETHER CLECS ARE
8 PROVIDING SERVICE CONSISTENT WITH THE SELF-
9 PROVISIONING OR WHOLESALE TIGGERS?

10 A No GeoResults produces a lengthy list of companies for which it
11 identifies as "Lit CLECs", including retail establishments, banks,
12 enterprise customer locations, paging companies, and long distance
13 resellers. It does not appear to have the intelligence to distinguish actual
14 fiber facilities from those using another carrier's facilities.

16 Q. HAS ANOTHER ILEC ACKNOWLEDGED THAT GEORESULTS
17 FALSELY IDENTIFIES CLECS AS PRESENT IN BUILDINGS
18 WHEN THEY ACTAULLY ARE NOT?

19 A Yes. For example, in Illinois, SBC testified that GeoResults had identified

20 *** BEGIN CONFIDENTIAL ***

***** END CONFIDENTIAL *** See**

22 Testimony of Rebecca L. Sparks on Behalf of SBC Illinois, Illinois

23 Commerce Commission, Docket No. 03-0596, at 17 (Feb. 4, 2004)

1

2 Q. DO YOU HAVE SPECIFIC DOUBTS AS TO WHETHER
3 CERTAIN CLECS LISTED BY BELL SOUTH COULD QUALIFY
4 AS TRIGGERS?

5 A. Yes. For example, *** BEGIN CONFIDENTIAL ***

6

7

8

9

10

11

12

13

14

*** END CONFIDENTIAL *** Clearly, if BellSouth
15 identified these companies based on GeoResults, then the methodology
16 used by GeoResults must be called into question

17

18 Q. HOW SHOULD THE GEORESULTS DATA BE USED IN THE
19 TRIGGER ANALYSES?

20 A. The data could be used to develop a baseline list of buildings, which then
21 could be presented to the CLECs. The CLECs, in turn, could validate
22 whether the information contained in GeoResults is accurate and whether

1 they are providing the appropriate type and capacity level of service
2 required by the triggers.

3

4 **Q. HOW SHOULD THE TRA PROCEED BASED UPON THE**
5 **EVIDENCE PROVIDED?**

6 A. I recommend that the Authority request further information from the
7 trigger CLECs for the 9 buildings that I have identified as potentially
8 meeting the triggers. Such information includes identifying whether the
9 CLECs are currently self-provisioning DS3 loops at the location, whether
10 they are doing so as part of an OC(n) or 3 DS3 level of demand, and
11 whether they have access to all customers in the building

12

13 **B. DEDICATED TRANSPORT**

14 **Q. HAVE YOU REVIEWED BELL SOUTH'S TESTIMONY**
15 **CONCERNING THE APPLICATION OF THE SELF-**
16 **PROVISIONING TRIGGER TO DEDICATED TRANSPORT**
17 **ROUTES?**

18 A. Yes, I have reviewed the testimony of Shelley W. Padgett beginning on
19 page 17

20

21 **Q. WHAT WERE BELL SOUTH'S CONCLUSIONS REGARDING**
22 **THE SELF-PROVISIONING TRIGGER ANALYSIS FOR**
23 **DEDICATED TRANSPORT?**

1 A BellSouth has asserted that 81 transport routes satisfy the self-provisioning
2 trigger for DS3 service and for dark fiber. The routes are listed in
3 Attachment SWP-8 to Ms. Padgett's testimony.

4
5 Q. **WHAT WAS THE PROCESS THAT BELL SOUTH USED TO**
6 **IDENTIFY DEDICATED TRANSPORT ROUTES THAT IT**
7 **CLAIMS SATISFY THE SELF-PROVISIONING TRIGGER?**

8 A. Similar to her process for loops, BellSouth witness Padgett developed a
9 list of wire centers at which competitive providers have established
10 collocation arrangements based upon information that BellSouth gathered
11 in discovery and through examining its own collocation records.
12 BellSouth then assumed that transport routes exist between each and every
13 collocation arrangement within a given LATA for each individual carrier
14 for both the DS3 and dark fiber capacity levels

15
16 Q. **DID BELL SOUTH PERFORM THE APPROPRIATE ANALYSIS**
17 **TO DEMONSTRATE THAT THE SELF-PROVISIONING**
18 **TRIGGERS WERE SATISFIED FOR DEDICATED TRANSPORT?**

19 A. No. BellSouth's analysis relies almost exclusively upon the "connect the
20 dots" approach, in which it simply asserts that a transport route exists
21 between each and every CLEC wire center, even if the CLEC itself denies
22 or does not indicate that it provides a dedicated transport route between
23 the two wire centers. I have reviewed the discovery responses that CLECs

1 have submitted in this proceeding. I have compared the list of transport
2 routes that CLECs have identified in their discovery responses with the
3 transport routes that BellSouth has identified as being served by those
4 CLECs. As I discuss below, as a result of this review, I have compiled a
5 list of transport routes – of the routes that BellSouth claims that satisfy the
6 self-provisioning trigger – that potentially could satisfy this trigger. See
7 Exhibit GJB-2. In Exhibit GJB-2, I have identified CLECs that BellSouth
8 claims are trigger candidates despite their statements that they do not
9 provide dedicated transport with the notation "NR" (or No Routes).
10 BellSouth also identified CLECs as trigger candidates based on its own
11 collocation records, even though these carriers did not respond to
12 discovery and BellSouth's data is unverified. I have identified these
13 CLECs with the notation "ND" (or No Data). Even for those CLECs that
14 indicate they may be capable of providing transport, BellSouth has not
15 provided any evidence that those CLECs are self-provisioning at the DS3
16 capacity level. These CLECs are indicated with a "?" in Exhibit GJB-2.

Deleted:

15 Q. WERE YOU ABLE TO REVIEW ANY OF THE CLEC DATA
16 RESPONSES FOR TRANSPORT?

17 A. Yes. I reviewed the responses of *** BEGIN CONFIDENTIAL ***

1

2

3

4

5

***** END**

6

CONFIDENTIAL *** as triggers on numerous routes based solely upon

7

BellSouth's own collocation records.

8

9

Q. DID BELL SOUTH IDENTIFY CARRIERS AS SELF-

10

PROVISIONING DEDICATED TRANSPORT EVEN THOUGH

11

THE CARRIER DENIED SELF-PROVISIONING DEDICATED

12

TRANSPORT ALONG ANY ROUTE?

13

A Yes. * BEGIN CONFIDENTIAL *****

14

***** END CONFIDENTIAL ***** as trigger candidates

15

despite the fact that each of these carriers denied providing any transport

16

between BellSouth wire centers whatsoever.

17

18

Q. ARE THERE TRANSPORT ROUTES THAT COULD QUALIFY

19

FOR THE SELF-PROVISIONING TRIGGER IF ALL OF THE

20

QUESTION MARKS BECAME REALITY?

21

A Yes There are 28 routes in Memphis that could conceivably meet the

22

self-provisioning trigger See Exhibit GJB-2 These routes would satisfy

23

the self-provisioning trigger only if ***** BEGIN CONFIDENTIAL *****

***** END CONFIDENTIAL**

1
2 ******* each self-provisioning dedicated transport at the DS3 capacity level
3 on these routes. Each of these CLECs would need to provide further
4 information to make this determination.
5

6 **Q. HOW DID YOU ARRIVE AT THE DETERMINATION THAT 28**
7 **DEDICATED TRANSPORT ROUTES MIGHT SATISFY THE**
8 **FCC'S SELF-PROVISIONING TRIGGER?**

9 **A.** I reviewed the CLEC discovery responses submitted in this proceeding,
10 and I compared those discovery responses with the dedicated transport
11 routes that BellSouth claims satisfy the self-provisioning trigger. As an
12 initial matter, as I stated above, I determined whether the carrier stated that
13 it provided dedicated transport. If the carrier denied providing dedicated
14 transport (such as ***** BEGIN CONFIDENTIAL *****
15 ***** END CONFIDENTIAL *****), then I removed those carriers
16 from BellSouth's route list. I then compared the list of routes along which
17 the carriers themselves stated that they provisioned dedicated transport
18 (for example, for ***** BEGIN CONFIDENTIAL ***** *******
19 **END CONFIDENTIAL *****) with the list of routes that BellSouth
20 claimed that carrier served. I then compared the capacity level at which
21 BellSouth claimed the carrier self-provisioned dedicated transport along
22 the route with the responses that the carriers themselves provided. After
23 performing each of these steps, I identified the routes where there are three

1 or more carriers that potentially self-provide dedicated transport along the
2 route at the capacity level listed therein.

3 **Q. IS IT APPROPRIATE FOR BELL SOUTH TO IDENTIFY A**
4 **ROUTE BASED SOLELY UPON ITS COLLOCATION RECORDS?**

5 **A** No BellSouth does not have enough information to make a determination
6 that a transport route satisfies the self-provisioning trigger based solely on
7 its collocation records. For example, collocation records do not indicate
8 whether the carrier actually is providing a transport service between those
9 collocations. Nor does BellSouth have information regarding the capacity
10 level at which the carrier provides service, if any, or whether the service is
11 self-provisioned or wholesale

12

13 **Q. SHOULD BELL SOUTH HAVE INCLUDED ALL OF THESE**
14 **CLECS AS TRIGGERS BASED UPON YOUR REVIEW OF THEIR**
15 **DATA RESPONSES.**

16 **A** No. It is inappropriate to include any of the CLECs that do not
17 acknowledge self-provisioning transport between the ILEC wire centers.
18 As I explained earlier in my testimony, "connecting the dots" between
19 CLEC collocation arrangements is not an appropriate means of identifying
20 self-provisioned transport routes.

21

22 **Q. HOW SHOULD THE TRA PROCEED WITH THE EVIDENCE**
23 **PROVIDED?**

1 A The TRA should request further information from *** BEGIN
2 CONFIDENTIAL . *** END
3 CONFIDENTIAL *** to determine whether these CLECs are actually
4 self-provisioning dedicated transport between each wire center indicated
5 on Exhibit GJB-2 at the DS3 or dark fiber capacity level consistent with
6 the requirements of the *TRO*

7
8 III. CRITIQUE OF BELL SOUTH FLORIDA WHOLESALE TRIGGER
9 ANALYSES

10 A. HIGH CAPACITY LOOPS

11 Q. HAVE YOU REVIEWED BELL SOUTH'S TESTIMONY
12 CONCERNING THE APPLICATION OF THE WHOLESALE
13 TRIGGER TO HIGH CAPACITY LOOPS?

14 A Yes, I have reviewed the testimony of Shelley W. Padgett beginning at
15 page 12

16
17 Q. WHAT WERE BELL SOUTH'S CONCLUSIONS REGARDING
18 THE WHOLESALE TRIGGER ANALYSIS?

19 A. BellSouth has asserted that the same buildings that it claimed for the self-
20 provisioning trigger also satisfy the wholesale facilities trigger, with the
21 exception of several buildings that it claims do not satisfy the wholesale
22 trigger at the DS1 capacity level (BellSouth claimed only 33 locations for
23 DS1, compared to 37 for DS3) The customer specific locations are listed
24 in Attachment SWP-3 to Ms Padgett's testimony.

1

2 **Q. WHAT WAS THE PROCESS BELL SOUTH USED TO IDENTIFY**
3 **THE BUILDINGS THAT IT CLAIMS SATISFY THE**
4 **WHOLESALE TRIGGER?**

5 A. On page 13 of Ms. Padgett's testimony, Ms. Padgett lists the broad range
6 of sources that she used to identify carriers as wholesalers, including
7 CLEC discovery responses, BellSouth's "experience" in losing wholesale
8 contracts, carriers' advertisements, carriers' public statements, and analyst
9 and industry reports. Ms. Padgett then continues with a creative assertion
10 that the carrier does not even have to be currently selling wholesale
11 service to qualify for the wholesale trigger. Instead, according to Ms.
12 Padgett, the carrier simply needs to express some sort of "willingness" to
13 provide wholesale services. Under BellSouth's view, everyone is a
14 wholesaler, whether they realize it or not.

15

16 **Q. DOES THE TRO ALLOW FOR CLECS TO BE DECLARED**
17 **WHOLESALE TRIGGER?**

18 A. No. The intent of the TRO and the wholesale triggers is to identify
19 locations where CLECs have made an affirmative business decision to
20 provide wholesale services, and have implemented the appropriate
21 network configurations and back office support systems to provide a
22 comparable service to that provided by the UNE that is being replaced. In
23 paragraph 337 of the TRO, the FCC provides the numerous requirements

1 that a CLEC must meet to be a wholesaler for the purposes of the trigger:
2 “where the relevant state commission determines that two or more
3 unaffiliated alternative providers...offer an equivalent wholesale loop
4 product at a comparable level of capacity, quality, and reliability, have
5 access to the entire multunit customer premises, and offer the specific
6 type of high-capacity loop over their own facilities on a widely available
7 wholesale basis to other carriers desiring to service customers at that
8 location, then incumbent LEC loops at the same loop capacity level
9 serving that particular building will no longer be unbundled.” Clearly, the
10 FCC is intending to identify CLECs who have chosen to provide
11 wholesale service to the given locations, and have implemented the
12 necessary network and back-office systems to provide such services.

13
14 **Q. DID THE FCC REQUIRE EVIDENCE OF BACK OFFICE**
15 **SUPPORT SYSTEMS TO QUALIFY A CLEC AS A**
16 **WHOLESALE?**

17 **A.** Yes. In making its determination that there is “scant evidence of
18 wholesale alternatives for serving customers at the DS1 level” in
19 paragraph 325, the FCC concluded that, “[t]he record indicates that even
20 competitive carriers that have deployed their own loop facilities do not
21 have the back office support systems in place that are necessary to offer
22 any excess capacity on a wholesale basis to other competitive LECs.” (see
23 footnote 958).

1

2 **Q. WHY IS IT IMPORTANT THAT THE WHOLESALE TRIGGER**
3 **BE TREATED SEPARATELY FROM THE SELF-PROVISIONING**
4 **TRIGGER AND THAT CARE BE TAKEN TO AVOID**
5 **INCORRECTLY LABELING A CARRIER AS A WHOLESALER?**

6 A. Unlike the self-provisioning trigger, the wholesale trigger includes access
7 to loops at the DS1 capacity level, meaning that CLECs potentially could
8 be denied access to those loops if the wholesale trigger were met despite
9 the FCC's finding that it is practically impossible for a CLEC to
10 economically provision a standalone DS1 loop. DS1 loops are the primary
11 means of provisioning service to medium-size enterprise customers for
12 CLECs, and denial of DS1-loops would be a severe impediment to the
13 CLEC's ability to provide competitive services.

14

15 **Q. HAVE YOU BEEN ABLE TO NARROW THE NUMBER OF**
16 **BUILDINGS THAT POTENTIALLY COULD MEET THE**
17 **WHOLESALE TRIGGER?**

18 A Yes I have reviewed the CLECs' discovery responses and compared
19 those responses against the list of customer locations that BellSouth claims
20 satisfy the wholesale trigger See Exhibit GJB-3. Based on this review,
21 there are two buildings that potentially satisfy the wholesale trigger for
22 DS3 loops and one building that may meet the wholesale trigger for DS1
23 loops

1 Q. WHAT STEPS DID YOU TAKE TO CREATE THE LIST OF
2 BUILDINGS THAT POTENTIALLY SATISFY THE WHOLESALE
3 TRIGGER?

4 A As I stated above, I reviewed the discovery responses submitted in this
5 proceeding. As a threshold matter, I determined whether the carrier stated
6 that it provided wholesale loops. If a carrier denied providing wholesale
7 loops, then I removed that carrier from BellSouth's list of customer
8 locations. I then determined whether the carrier listed in its discovery
9 responses the building that BellSouth claimed it served. I also reviewed
10 the capacity levels at which the carrier stated that it provided wholesale
11 service. At the end of these inquiries, there were four buildings that had
12 two or more CLECs that potentially provided wholesale service at the DS3
13 capacity level and one building that had two or more CLECs that
14 potentially provided wholesale service at the DS1 level. I did not have
15 access to the customer location lists (if they have been filed in this
16 proceeding) of *** BEGIN CONFIDENTIAL ***

17 *** END CONFIDENTIAL *** If it
18 turns out that these carriers are offering wholesale loops at the relevant
19 capacity levels to the buildings BellSouth indicated, these numbers could
20 be slightly higher.
21

1 Q. WHAT ADDITIONAL STEPS NEED TO BE TAKEN TO ENSURE
2 THAT THE BUILDINGS IDENTIFIED ACTUALLY WOULD
3 MEET THE WHOLESALE TRIGGER?

4 A Similar to the self-provisioning trigger, the CLEC must be able to serve all
5 customers in the building, and must be willingly offering wholesale loops
6 at the building at the relevant capacity level to other CLECs.
7 Additionally, it must be validated that the CLEC's wholesale offering is
8 widely available to competitors on a nondiscriminatory basis, and that the
9 CLEC has the necessary back office systems to support the provision of
10 wholesale loops service
11

12 Q. DID BELL SOUTH PROPERLY VERIFY THE AVAILABILITY OF
13 DS1 LOOP SERVICES ON A WHOLESALE BASIS FOR THE
14 BUILDINGS IT LISTED?

15 A No According to BellSouth witness Padgett, BellSouth made an
16 assumption that any existing fiber facility can provide DS1 level service,
17 and that the appropriate level of customer demand exists to support
18 standalone DS1 loops. This assumption is incorrect DS1-level service
19 only can be provided when a fiber facility has been equipped with the
20 appropriate electronics, including an optical multiplexer with the
21 capability of provisioning DS1 channels The FCC was very clear in its
22 requirement that wholesale service must be available at the specific
23 capacity level in order for the trigger to be satisfied.

1

2 Q. DID THE FCC ANTICIPATE THAT A VERY SMALL NUMBER
3 OF BUILDINGS WOULD SATISFY THE WHOLESALE
4 TRIGGERS?

5 A. Yes In paragraph 338 of the TRO, the FCC stated, "[w]e recognize that,
6 while the record indicates that there are presently a limited number of
7 alternative wholesale loop providers serving multitenant premises, we
8 anticipate that a competitive market will continue to *develop*." (emphasis
9 added)

10

11 B. DEDICATED TRANSPORT

12 Q. HAVE YOU REVIEWED BELL SOUTH'S TESTIMONY
13 CONCERNING THE APPLICATION OF THE WHOLESALE
14 TRIGGER TO DEDICATED TRANSPORT ROUTES?

15 A. Yes, I have reviewed the testimony of Shelley W. Padgett beginning on
16 page 29 of her testimony.

17

18 Q. WHAT WERE BELL SOUTH'S CONCLUSIONS REGARDING
19 THE WHOLESALE TRIGGER ANALYSIS?

20 A. BellSouth has asserted that the same number (81) routes it asserted meet
21 the self-provisioning trigger also meet the wholesale triggers for DS3 and
22 DS1, and that 75 routes meet the wholesale trigger for dark fiber. The

1 transport routes with the trigger CLECs are listed on Attachment SWP-8
2 to Ms. Padgett's testimony
3

4 **Q. PLEASE DESCRIBE THE PROCESS BELLSOUTH USED TO**
5 **IDENTIFY DEDICATED TRANSPORT ROUTES THAT IT**
6 **CONTENDS SATISFY THE WHOLESALE PROVISIONING**
7 **TRIGGER.**

8 A BellSouth used the same "connect the dots" approach to collecting data
9 that I described above in my critique of the self-provisioning trigger, and
10 used the same broad-brush approach to identify wholesale service
11 providers as it used for loops, essentially assuming without supporting
12 evidence that every competitive transport provider is providing wholesale
13 on each and every route
14

15 **Q. DOES BELLSOUTH HAVE AN INCENTIVE TO BE OVERLY**
16 **BROAD IN ITS IDENTIFICATION OF WHOLESALE**
17 **TRANSPORT ROUTES?**

18 A. Yes. First, similar to the wholesale trigger for loops, routes that meet the
19 wholesale trigger also are eligible to have DS1-level transport delisted,
20 which is not possible under the self-provisioning trigger. Additionally,
21 since the wholesale trigger for dedicated transport only requires evidence
22 of two competing providers, as opposed to the three for the self-
23 provisioning trigger, BellSouth can increase the total number of routes to

1 be delisted if it can certify that the providers are wholesalers instead of
2 self-provisioners
3

4 Q. DOES BELL SOUTH'S ANALYSIS OF THE WHOLESALE
5 TRIGGERS FOR TRANSPORT SATISFY THE FCC
6 REQUIREMENTS?

7 A No. BellSouth's analysis of the wholesale trigger for transport
8 incorporates all of the flaws of the self-provisioning analysis mentioned
9 above. Additionally, similar to the wholesale loop triggers, BellSouth
10 declared *** BEGIN CONFIDENTIAL *** *** END
11 CONFIDENTIAL *** as wholesalers even though they specifically
12 denied providing wholesale services.
13

14 Q. HOW MANY ROUTES MAY BE ELIGIBLE FOR THE
15 WHOLESALE TRIGGER?

16 A Based on my review of the CLEC data responses, the same 28 routes I
17 identified as potentially satisfying the self-provisioning trigger potentially
18 also qualify for the wholesale trigger
19

20 Q. WHAT FURTHER INFORMATION WOULD NEED TO BE
21 GATHERED TO MAKE A DETERMINATION AS TO WHETHER
22 ANY OF THESE 28 ROUTES ACTUALLY MEET THE
23 WHOLESALE TRIGGER?

1 A. First, an evaluation must be made as to whether the CLECs are currently
2 equipped and operationally ready to provide dedicated transport on the
3 route at the relevant capacity level. Second, evidence must be gathered as
4 to whether the CLEC is willing and capable of immediately providing
5 wholesale service to another CLEC, including whether the CLEC has
6 implemented all of the necessary back office systems necessary to provide
7 such a service.

8

9 IV. **POTENTIAL DEPLOYMENT ANALYSIS FOR HIGH-CAPACITY**
10 **LOOPS AND DEDICATED TRANSPORT**

11 Q. PLEASE DESCRIBE WHAT IS MEANT BY POTENTIAL
12 DEPLOYMENT.

13 A The potential deployment analysis essentially provides that BellSouth may
14 attempt to demonstrate that no impairment exists for loop locations or
15 transport routes even though the self-provisioning trigger has not been
16 satisfied.

17

18 Q. ARE DS1-CAPACITY LEVEL LOOPS AND TRANSPORT
19 ELIGIBLE FOR A POTENTIAL DEPLOYMENT CLAIM?

20 A. No. The FCC defined potential deployment as a theoretical substitute for
21 the self-provisioning trigger. As such, only those capacity levels eligible
22 for the self-provisioning trigger (DS3 and dark fiber) are eligible for
23 potential deployment claims

CERTIFICATE OF SERVICE

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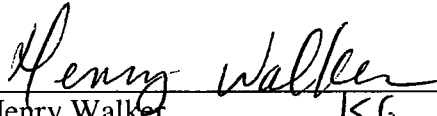
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